
Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	File No. EB-01-NY-490
)	
Rev. Yvon Louis)	NAL/Acct. No. 200232380002
Brooklyn, NY)	
)	FRN: 0006-2631-72

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: July 23, 2002

By the District Director, New York Office, Enforcement Bureau:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture ("NAL"), we find that Rev. Yvon Louis ("Rev. Louis") has apparently violated Section 301 of the Communications Act of 1934 ("Act"),¹ as amended, by operating an unlicensed radio transmitter on frequencies 93.7 MHz, 88.1 MHz, and 90.1 MHz. We conclude that Rev. Yvon Louis is apparently liable for forfeiture in the amount of ten thousand dollars (\$10,000).

II. BACKGROUND

2. On November 16, 2001, in connection with an investigation of the operation of unlicensed FM broadcast stations in Brooklyn, New York, Commission agents observed unauthorized radio broadcast on 93.7 MHz, and positively identified the source of the unauthorized transmissions to the Calvary Tabernacle, Inc., 1653 Nostrand Avenue, Brooklyn, NY, 11226. There was no evidence of a Commission authorization for this operation in Brooklyn, NY.

3. On November 17, 2001, Commission agents again observed unauthorized radio broadcast on 93.7 MHz, and positively identified the source of the unauthorized transmissions to the Calvary Tabernacle, Inc., 1653 Nostrand Avenue, Brooklyn, NY, 11226. The agents requested and were given permission by Rev. Louis to inspect the radio station's studio equipment. The agents hand-delivered a Warning Letter to Rev. Louis for the operation of the unlicensed station.

4. On November 23, 2001, the New York Office sent a Warning Letter, for unlicensed operation, by First Class and Certified Mail Return Receipt Requested, to Rev. Louis.

5. On December 5, 2001, the New York Office received a letter from Rev. Louis in which Rev. Louis acknowledged and confirmed the operation of a radio station at 1653 Nostrand Avenue, Brooklyn, NY, 11226.

¹ 47 U.S.C. § 301.

6. On December 14, 2001, Commission agents observed radio broadcast on 88.1 MHz, and positively identified the source of the unauthorized transmissions to the Calvary Tabernacle, Inc., 1653 Nostrand Avenue, Brooklyn, NY, 11226. There was no evidence of a Commission authorization for this operation in Brooklyn, NY.

7. On December 17, 2001, Commissions agents requested and were given permission to inspect the radio station by Rev. Louis. In response to questions by the agents, Rev. Louis told the agents that he operated the station on weekends, first on 93.7 MHz, and later on 88.1 MHz. The agents noted that Rev. Louis had a copy of the Warning Letter dated November 23, 2001, in his possession.

8. On January 4, January 5, and January 11, 2002, Commission agents again observed radio broadcast on 88.1 MHz, and positively identified the source of the unauthorized transmissions to the Calvary Tabernacle, Inc., 1653 Nostrand Avenue, Brooklyn, NY, 11226.

9. On January 18, 2002, Commission agents again observed radio broadcast on 88.1 MHz, and positively identified the source of the unauthorized transmissions to the Calvary Tabernacle, Inc., 1653 Nostrand Avenue, Brooklyn, NY, 11226. The agents conducted a station inspection and determined that Rev. Louis was the person operating the radio station.

10. On January 27, 2002, a Commission agent observed radio broadcast on 90.1 MHz, and positively identified the source of the unauthorized transmissions to the Calvary Tabernacle, Inc., 1653 Nostrand Avenue, Brooklyn, NY, 11226. There was no evidence of a Commission authorization for this operation in Brooklyn, NY.

11. On June 22, 2002, Commission agents again observed radio broadcast on 88.1 MHz, and positively identified the source of the unauthorized transmissions to the Calvary Tabernacle, Inc., 1653 Nostrand Avenue, Brooklyn, NY, 11226. The agents conducted a station inspection and determined that Rev. Louis was the person responsible for the station operation.

III. DISCUSSION

12. Section 301 of the Act sets forth generally that no person shall use or operate any apparatus for the transmission of energy or communications or signals by radio within the United States except under and in accordance with the Act and with a license granted under the provisions of the Act.

13. Based on the evidence before us, we find that Rev. Louis was responsible for the operation of radio transmission equipment on: 93.7 MHz on November 16, and November 17, 2001; 88.1 MHz on December 14, 2001, January 4, January 5, January 11, and January 18, 2002; 90.1 MHz on January 27, 2002, and 88.1 MHz on June 22, 2002, without a Commission authorization in willful² and repeated³ violation of Section 301 of the Act.

² Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to Section 503(b) of the Act, provides that “[t]he term ‘willful’, when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act” See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

³ Section 312(f)(2), which also applies to Section 503(b), provides: [t]he term “repeated”, when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.

14. *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087, 17113 (1997), *recon. denied*, 15 FCC Rcd 303(1999) ("*Forfeiture Policy Statement*")⁴, sets the base forfeiture amount for operation without an instrument of authorization at \$10,000. In assessing the monetary forfeiture amount, we must take into account the statutory factors set forth in Section 503(b)(2)(D) of the Act,⁵ which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require. Applying the *Forfeiture Policy Statement* and the statutory factors to the instant case and applying the inflation adjustments, we believe that a ten thousand dollar (\$10,000) monetary forfeiture is warranted.

IV. ORDERING CLAUSES

15. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act⁶ and Sections 0.111, 0.311 and 1.80 of the Rules⁷, Rev. Yvon Louis is hereby NOTIFIED of his APPARENT LIABILITY FOR A FORFEITURE in the amount of ten thousand dollars (\$10,000) for willfully violating Section 301 of the Act.

16. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Commission's Rules, within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, Rev. Yvon Louis SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

17. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. 200232380002 and FRN: 0006-2631-72.

18. Any response to this NAL must be mailed to Federal Communications Commission, Enforcement Bureau, Technical and Public Safety Division, 445 12th Street, S.W., Washington, D.C. 20554 and MUST INCLUDE THE NAL/Acct. No. 200232380002.

19. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

⁴47 C.F.R. § 1.80.

⁵ 47 U.S.C. § 503(b)(2)(D).

⁶47 U.S.C. § 503(b).

⁷ 47 C.F.R. §§ 0.111, and 0.311.

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20. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Chief, Revenue and Receivable Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁸

21. IT IS FURTHER ORDERED THAT a copy of this NOTICE OF APPARENT LIABILITY shall be sent by Certified Mail Return Receipt Requested to Rev. Yvon Louis, 1653 Nostrand Avenue, Brooklyn, NY 11226.

FEDERAL COMMUNICATIONS COMMISSION

Daniel W. Noel
Acting District Director
New York Office

⁸ See 47 C.F.R. § 1.1914.